

FCC MAIL SECTION

Federal Communications Commission

FCC 97-341

SEP 24 3 00 PM '97

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
)	
Calling Party Pays Service Option)	WT Docket No. 97-207
in the Commercial Mobile Radio Services)	

NOTICE OF INQUIRY

Adopted: September 25, 1997

Released: October 23, 1997

By the Commission:

Comment Date: December 1, 1997
Reply Comment Date: December 16, 1997

I. INTRODUCTION; BACKGROUND

1. We are initiating this Notice of Inquiry to seek information regarding Calling Party Pays (CPP), a service option currently offered by some Commercial Mobile Radio Service (CMRS) providers. The purpose of this inquiry is to explore means of encouraging and facilitating competition in the local exchange telephone market. The Commission is committed to taking necessary actions to increase consumer options for local telephone service.¹ To this end, our objective in this Notice is to explore the subject of CPP in order to

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *to be codified at* 47 U.S.C. §§ 151 *et. seq.* See, e.g., Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, CC Docket No. 96-98, 11 FCC Rcd 15499 (1996) (*Local Competition Order*), *aff'd in part and vacated in part sub nom.* Competitive Telecommunications Ass'n v. FCC, 117 F.3d 1068 (8th Cir. 1997), *aff'd in part and vacated in part sub nom.* Iowa Utils. Bd. v. FCC, No. 96-3321 *et al.*, 1997 WL 403401

develop a record for determining whether the wider availability of CPP would enable CMRS providers to more readily compete with wireline services provided by LECs, and for determining whether there are actions that the Commission could take to promote the wider availability of CPP for CMRS providers.

2. CMRS telephone consumers throughout the Nation typically pay on a per minute basis for all calls they initiate or receive. Wireline telephone consumers typically pay a flat rate for unlimited local calls initiated or received. A fundamental difference between wireline and wireless service is that currently a U.S. wireline telephone subscriber does not pay any *additional* charges to receive telephone calls, whereas most CMRS telephone subscribers pay a per minute charge to receive calls. We are interested in analyzing whether this difference between wireline and wireless telephone service hinders the rate at which CMRS services are accepted by consumers as a close substitute for wireline telephone service.

3. CPP is a service option that some cellular, paging, and Personal Communications Service (PCS) providers offer whereby the party placing the call or page pays the airtime charge, and any applicable charges for calls transported within the LECs' Local Access and Transport Areas.² Without this service option, the subscriber to the CMRS service — the "called party" — pays for incoming calls. In order for a CMRS provider to offer this service option, the LEC must be willing and able to provide the CMRS carrier with this billing service or sufficient information for the CMRS carrier to bill the calling party directly. Typically, the charges for the call appear on the monthly bill provided to the calling party by the LEC, either as a separate page of the bill or as a separate section of the bill.

(8th Cir., July 18, 1997) (*Iowa Utilities Board*), Order on Reconsideration, 11 FCC Rcd 13042 (1996) (*Local Competition First Reconsideration Order*), Second Order on Reconsideration, 11 FCC Rcd 19738 (1996) (*Local Competition Second Reconsideration Order*), Third Order on Reconsideration and Further Proposed Rulemaking, FCC 97-295 (rel. Aug. 18, 1997) (*Local Competition Third Reconsideration Order*), *further recon. pending*; Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, Second Report and Order, Order on Reconsideration and Fifth Notice of Proposed Rulemaking, CC Docket No. 92-297, FCC 97-82, released March 13, 1997; Telephone Number Portability, CC Docket No. 95-116, RM-8535, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-286, 11 FCC Rcd 8352 (1996); Amendment of the Commission's Rules To Establish New Personal Communications Services, Memorandum Opinion and Order, GN Docket No. 90-314, 9 FCC Rcd 4957, 4963, 4970-71 (paras. 17, 26-27) (1994).

² Most calls to wireless phones currently originate from wireline phones. We recognize that some calls originate from wireless phones and that such calls could implicate some additional issues.

4. In addition to examining various aspects of CPP, we will examine in this inquiry a number of arguments that have been made regarding the advantages of CPP service options. For example, CTIA suggests that the public would benefit by greater availability of CPP.³ CTIA and others argue that CPP could expand CMRS service subscribership by enabling subscribers to better control their costs, and thereby make CMRS services more attractive to those consumers who wish to limit or control their monthly bill.⁴ One party reasons that an increase in the availability of CPP could encourage subscribers to distribute their mobile phone numbers more widely because this type of service should decrease the number of unwanted calls.⁵

II. INQUIRY

5. We seek information regarding, among other issues, the current availability of the CPP service option, how the calling party is informed of charges that will be incurred, the magnitude of these charges, what technical and contractual requirements are needed to implement this service option, whether there are technical, regulatory, or other barriers impeding the availability of this service option, and whether there are pro-competitive reasons for the Commission to initiate any actions to encourage the availability of this service option.

A. Current Availability of CPP

6. LECs currently offer a CPP service option to CMRS carriers in Arizona, Colorado, Delaware, Hawaii, Idaho, Illinois, Iowa, Maryland, Montana, Nebraska, New Jersey, New Mexico, Pennsylvania, Utah, Virginia, the State of Washington, and Washington, D.C.⁶ Ameritech, Bell Atlantic, GTE, SNET, and US West currently make this capability available to CMRS carriers. It is unclear, however, how many mobile carriers offer the CPP

³ CTIA Service Report, *The Who, What, and Why of "Calling Party Pays,"* July 4, 1997 (CTIA CPP Report), at 6.

⁴ *Id.*; Mobile Phone News, "Calling Party Pays, Prepaid May Be Answer To Reduce Churn, Open Revenue Streams," Nov. 25, 1996; M2 Presswire, "Bell Atlantic: Wireless Users Can Now Save On Airtime Charges," Nov. 6, 1995; Cellular Business, "The Enigma of the Killer Application," July 1, 1996; Mobile Phone News, "Report Cautions Carriers to Position Services as Complement to Landline to Ensure Continued Success," Jan. 20, 1997.

⁵ Cellular Business, "The Enigma of the Killer Application," July 1, 1996.

⁶ Mobile Phone News, "US West Cellular Offers Caller Pays Services," Apr. 22, 1996; Business Wire, "US West Cellular Introduces Calling Party Pays in Colorado," June 6, 1994.

service option to their subscribers.⁷ Outside the United States, CPP seems to be the prevalent billing system for mobile telephony and has recently been implemented for paging subscribers in many European countries and for mobile telephony subscribers in South America.⁸

7. Thus, we seek information on which carriers offer the CPP service option, in which geographic markets consumers have the service option, details of the arrangements between LECs and CMRS carriers and between CMRS carriers and subscribers, any regulatory requirements imposed by the various States, consumer reaction to the service option. We also seek comments addressing any additional issues that may be associated with applying CPP to a calling party originating a call to a wireless phone from a wireless phone.

8. We also seek comment as to the reasons CPP is not offered more broadly. Comments are requested that address whether new CMRS competition is likely to result in a broader availability of CPP and other service options in the future. We seek comment on the level of consumer demand for CPP. Commenters also are requested to address whether the market has failed to accommodate consumer demand for this or other service options and is likely to in the future. Commenters should provide detailed information on the specific technical, regulatory, or economic barriers that exist, and what actions, if any, the Commission should take to remove these barriers, in the event that the Commission decides that enhancing access to CPP is an appropriate pro-competitive goal. In addition, parties are asked to comment as to whether recent developments, including increased competition in the CMRS market, the related decrease in CMRS rates,⁹ and the implementation of reciprocal compensation for LEC-CMRS interconnection arrangements, create sufficient market

⁷ Ameritech offers CPP service to paging subscribers in Michigan, Illinois, Ohio, and Wisconsin. US West Cellular offers the service in Washington, 360° offers the service in portions of Virginia, AirTouch offers the service in Ohio, and BANM offers CPP in some southwestern cities. See CTIA CPP Report at 1, 4; RBOC Update, "Ameritech Paging Successful in Chicago," Jan. 1, 1996; The Seattle Times, "Calling a Cell Phone? Check That Prefix Before You Dial," Dec. 20, 1995; Salomon Brothers, *Wireless World, The Mobile Telephone Industry*, Apr. 1997 (Salomon Brothers) at 30.

⁸ CPP is used for wireless services in much of Latin America, including Argentina, Brazil, and Venezuela, Germany, Lebanon, Israel, Sweden, Italy, the United Kingdom, and the Czech Republic. Bell Mobility began a year-long market trial for calling party pays in Canada last November, firms in Israel began offering the service in 1996, and firms in Argentina began offering the service in 1997. See CTIA CPP Report at 8-9; Mobile Phone News, "Bell Mobility Introduces Calling Party Pays," Nov. 25, 1996; Business Wire, "PCPI Names Director of Technical Sales for Eastern United States," Nov. 18, 1996; Jerusalem Post, "Calling Party Pays Service Slated for April," Jan. 12, 1996; Dow Jones International News, "Argentina Cell Cos To Offer 'Calling Party Pays' April 15," Mar. 5, 1997.

⁹ See, e.g., The Yankee Group, *YankeeWatch MobileFLASH Wireless/Mobile North America*, Apr. 18, 1997, at 3.

incentives for CMRS carriers to refrain from charging their own subscribers for incoming calls, which could be viewed as achieving many of the benefits of CPP.¹⁰

9. To the extent that CPP is offered in a manner that requires the incumbent LEC to pay carrier-to-carrier airtime charges to complete a call, CPP and reciprocal compensation may address a similar issue (*i.e.*, how the CMRS provider recovers the cost of completing a call that did not originate on the CMRS network). Parties are asked to comment on whether reciprocal compensation may obviate or reduce the need for CMRS providers to implement CPP. In addition, parties are asked to discuss the extent to which the market would be able to discipline the rates charged to the calling party for completing a local call.¹¹

B. Demand Stimulating Effects

10. Some sectors of the CMRS industry maintain that CPP can help balance the flow of calls to and from CMRS networks, and stimulate demand for wireless services.¹² There are some indications that currently 80 percent of the traffic on CMRS networks originates from CMRS phones and 20 percent of the traffic originates on the wireline network, while traffic patterns are more balanced in a CPP framework.¹³ We seek comment on current traffic patterns in the United States, and in countries in which CPP is the norm, and on whether CPP promotes more balanced traffic flows and increased demand for CMRS services.

11. As noted by the CTIA CPP Report, however, it is uncertain whether the balance in incoming and outgoing traffic reported in other countries is due to CPP service or due to other factors.¹⁴ For example, the balance in traffic in these countries could be due to the

¹⁰ This would assume that cost recovery is the sole or primary reason for CMRS carriers to offer CPP. We ask for comment on whether there are other tangible reasons for promoting CPP apart from cost recovery and we ask commenters to prioritize such reasons.

¹¹ In the recent *Access Charge Reform Order*, we stated that when "[t]he call recipient generally does not pay for the call" that party is "not likely to be concerned about the rates charged" for terminating that call. *Access Charge Reform*, CC Docket No. 96-292, First Report and Order, FCC 97-158, released May 16, 1997, at para. 349.

¹² CTIA CPP Report at 8-12.

¹³ *Id.* at 9.

¹⁴ *Id.*

relative prices for wireless and wireline service.¹⁵ Alternatively, wireless service may be more desirable in these countries because the wireline network may be inferior in quality or less accessible.¹⁶ Finally, the increase in traffic terminating on a wireless network in these countries could be the result of an increase in subscribers' willingness to keep their wireless phones turned on because digital phones, which are used more extensively in other countries than in the United States, generally have longer battery lives.¹⁷ We seek comment on these issues and request any studies that attempt to isolate the effect of CPP from other variables. In particular, we seek information on the pricing of wireless and wireline service in those countries in which CPP is the norm, and request parties to submit any studies or information addressing these issues.

12. In addition, as noted by the CTIA CPP Report, "there is a scarcity of hard data regarding the stimulative effect of CPP in the U.S."¹⁸ Some industry sources believe CPP can increase the demand for CMRS services.¹⁹ The demand for CMRS services could increase either by increasing the minutes of usage or increasing the number of subscribers. We seek comment on the effects that CPP has had in markets in which it has been implemented in the United States. In particular, we seek empirical studies that have documented the effects of CPP on subscribership, traffic patterns (including traffic between wireless and wireline networks), and minutes of use in the markets in which CPP has been implemented.

13. We also seek information regarding the possibility that CPP could in some way alter the peak usage periods of the wireline telephone network, thus requiring network modifications. Parties should address in particular the reasons and empirical evidence for their claims regarding the relationship between CPP and CMRS service demand.

¹⁵ For instance, per call charges for cellular phones in Denmark are among the lowest in Europe, landline calls are charged on a per minute basis for both local and long distance calls, and the cellular per minute charges equal the landline long distance charges between 5:00 P.M. and 7:30 P.M. Consequently, cellular traffic is very high during this 2.5 hour period. Salomon Brothers, *Wireless Europe Quarterly*, May 1997, at 27.

¹⁶ The penetration rate for wireline telephony is higher in the United States than in most European countries. The wireline penetration rate in the United States is 62.7 (there are 62.7 access lines per 100 inhabitants). The wireline penetration rates for the following European countries are reported in the parentheses: Germany (49.5), United Kingdom (50.2), France (56.3), Sweden (68.1), Denmark (61.3), Luxembourg (55.8), Netherlands (51.8), Italy (43.4), Belgium (45.6), Ireland (36.7), Spain (38.5), Portugal (36.1), and Greece (49.4). All figures are for 1995. Organization for Economic Co-operation and Development, *Communications Outlook 1997 Volume 1*, Table 4.2.

¹⁷ See Salomon Brothers at 31.

¹⁸ CTIA CPP Report at 11.

¹⁹ NEWAVES Magazine, "Who Pays for the Call?," Sept. 1996; Mobile Phone News, "Calling Party Pays, Prepaid May Be Answer To Reduce Churn, Open Revenue Streams," Nov. 25, 1996.

14. We note that some CMRS providers offer their subscribers a service option under which the wireless subscribers do not pay for the first minute of calls they receive.²⁰ We seek comment on the availability of this service option, because some parties argue that this product innovation addresses concerns of those consumers who would be most interested in the CPP service option.²¹ We also seek any empirical studies and information on whether this service option encourages consumers to subscribe to mobile telephony services, to subscribe to a digital system, to disclose their mobile telephone number, and to keep their mobile telephone in an active operational mode. Further, we seek comment regarding whether use of the "first incoming minute free" option more evenly balances traffic to and from wireless networks and whether it would have an effect on the demand for CPP.

C. Pricing Issues

15. We also seek information on the pricing structure of CMRS and wireline services across the United States and in other countries. The pricing structure implicit in a CPP service is significantly different than the typical pricing structure for CMRS and local wireline service in the United States. In general, wireline telephone subscribers in the United States pay a flat rate for unlimited calling within a local service area, and do not pay any additional charges for received calls regardless of the calling party's location.²² Wireline telephone subscribers pay per minute charges for any calls placed to areas outside of their local service area or for calls they receive in which they agree to be charged (e.g., collect calls).

16. The typical price structure for mobile telephone service is comprised of a flat monthly fee for connection with the CMRS network and per minute charges for airtime. While a CMRS service plan may include some minutes of use, additional minutes of use are charged to the subscriber regardless of whether the subscriber places or receives the call. The per minute cost for these calls varies by mobile carrier, time of day, whether the subscriber is

²⁰ Many wireless systems provide caller ID to their subscribers, which also reduces the risk of charges for unwanted calls.

²¹ See CTIA CPP Report at 7.

²² The limited data we have examined suggest that measured service may have only limited appeal to consumers. Moreover, we lack information to determine whether those consumers choosing measured service would otherwise forego telephone service. The proportion of subscribers using measured service is 6.4 percent (Arkansas), 5.2 percent (Georgia), 4.3 percent (Indiana), 6.1 percent (Massachusetts), 4.7 percent (Nevada), and 6.9 percent (New Jersey). In October 1995, the national average for the lowest generally available recurring charge was \$6.80, and the average minimum monthly bill for measured service, including subscriber line charges and taxes, was \$11.79. In October 1995, the national average for flat rate residential service was \$19.49 monthly, including taxes and subscriber line charges. NARUC, *Bell Operating Companies Exchange Service Operating Rates*; Federal Communications Commission, *Trends In Telephone Service*; Industry Analysis Division, Common Carrier Bureau, Mar. 1997, at 11.

placing the call within his or her local calling area or roaming, whether the subscriber is placing a local or long distance call, and whether the call is to another CMRS or wireline telephone number. Thus, one current key distinction between CMRS and wireline pricing in the United States is the additional per minute charge assessed on CMRS subscribers for local calls placed and received by the subscriber.

17. The pricing structure implicit in CPP service is similar to the pricing structure for local wireline and wireless telephone services in many foreign countries. Wireless and wireline telephone subscribers in many countries pay a flat fee for unlimited calls *received*, but pay per minute charges for all calls *initiated*, even those placed to individuals within a local service area. For instance, a recent report by the Commission's International Bureau found that in most countries consumers pay for each local wireline telephone call on a per call or per minute basis rather than the more common flat-rate tariffs for local calls in the United States.²³ Thus, the pricing structure for local wireline and wireless telephone service outside the United States is generally more similar to toll wireline service in the United States.²⁴

18. Contrary to some parties' expectations, the differences in pricing between local telephone service and the CPP service option could deter some calls from wireline to mobile subscribers and may hinder efforts to minimize distinctions between telephony service provided on wireline and wireless networks. Widespread use of CPP could decrease the extent to which some consumers view CMRS and wireline telephony as close substitutes because the wireline consumer's incremental cost to place a local call to a CMRS phone could significantly increase while there would be no similar change in the consumer's incremental cost to place a local wireline call. Thus, we seek information on the proportion of wireline subscribers electing measured local service, and estimates of the potential demand for this option among wireline subscribers. We also seek price information for measured local calls and CPP calls, and whether they vary based on time of day or some other factors. In addition, we seek comments concerning the extent to which differences in prevailing rate levels between wireline and wireless service offerings may affect the relative demand for these services, as well as traffic balances between wireline and wireless networks.

19. CMRS carriers in the United States that offer CPP to subscribers may impose a fee to reprogram a subscriber's phone, and may also impose a monthly charge for this type of service.²⁵ The imposition and level of these charges may vary across markets. The cost of

²³ Federal Communications Commission, International Bureau, Telecommunications Division, *Foreign Tariffed Components Prices*, Dec. 1996, Appendix D.

²⁴ Consumers in only six countries of the 65 countries surveyed by the International Bureau use a flat rate tariff plan for local calls similar to that found in the United States. *Id.*

²⁵ CTIA CPP Report at 4, 6.

service to paging subscribers for receiving CPP traffic will be the cost of the pager and the activation fee, possibly with no recurring fees. The rate the calling party is charged may vary across markets and the time of day. We seek comment on whether there are fees associated with reprogramming CMRS phones and whether there are monthly charges for CPP. We also request information regarding the amount of these fees or monthly charges.

D. Consumer Protection Issues

20. Many State regulatory agencies and consumer groups have raised consumer protection issues related to informing callers that they will be charged a fee for placing a call to a CMRS phone, and informing callers of the magnitude of the charge.²⁶ Some State regulatory agencies have required carriers to implement various techniques to inform the calling party that the call being placed is a toll call.²⁷ These techniques include: the use of 1+ dialing; distinct NXX codes for CPP subscribers; prerecorded branding statements informing the caller of the charges prior to completing the call; and certain types of tones.²⁸

21. We seek information regarding how the calling party can best be informed of charges for calls to CMRS phones, including the magnitude of these charges.²⁹ We also seek comment on what technical and contractual capabilities are needed to inform the caller regarding his or her responsibility to pay for the call and regarding the amount of the charge for the call. In this regard, we seek comment regarding whether notification of the calling party, prior to the completion of the call, that he or she will be required to pay for the call, is a sufficient mechanism to create a binding contractual agreement obligating the calling party to make such payment. We also seek comment on steps that wireless carriers would need to

²⁶ State Telephone Regulation Report, "Wireless Billing Hearing Set," June 15, 1995; Chicago Tribune, "Chicago Wired for Wireless Technology Competition Grows; Cellular Firms Add Options, Cut Costs," Dec. 2, 1996; Mobile Phone News, "US West Departs from Traditional Billing in Several Markets with Calling Party Pays," June 13, 1994; Department of Public Service Regulation Before the Public Service Commission of the State of Montana, In the Matter of the Application of US West Division Communications to Introduce A Deregulated Billing and Collection Service Termed Air Time Message Bill Processing and Inquiry or "Calling Party Pays," Docket No. N-93-121, Nov. 7, 1995 (Montana Final Order).

²⁷ See, e.g., Montana Final Order.

²⁸ It appears that LECs educate wireline consumers that certain types of tones indicate a toll call. Mobile telephones in Europe have unique prefixes that consumers can use to signify that the phone number is that of a wireless telephone. *Salomon Brothers* at 31. For a discussion of potential technical issues associated with providing prerecorded branding statements, see paras. 23-25, *infra*.

²⁹ For example, we seek comment on whether the consumer notification options discussed in the context of our Operator Services Provider proceeding should be applied to CPP calls. See Billed Party Preference for InterLATA 0+ Calls, CC Docket No. 92-77, Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 7274, 7277, 7303 (1996).

take to ensure that calling parties who are not subscribers are subject to a contractual payment obligation, if the notification mechanism is considered insufficient for this purpose.

22. Finally, we seek comment on whether it would be in the public interest for the Commission to assist the telecommunications industry and the States to develop a uniform national method to inform the calling party of the magnitude of the charge, and of the calling party's responsibility to pay for the call. Commenters are also requested to suggest any alternatives to a uniform national approach that would be in the public interest.

E. Technical Issues

23. It appears that the CPP service option requires various infrastructure, contractual, and billing collection modifications that may limit its implementation in the United States. In order to be able to charge incoming calls to the calling party, the mobile carrier must have access to billing collection information (e.g., the caller's name and address) for the calling party.³⁰ However, this information would appear to be unavailable in some circumstances and would appear to result in uncollectible revenues for the CMRS carrier.³¹ These circumstances may include calls from pay phones, hotels, other CMRS phones and carriers, hospitals, WATS lines, and calling and credit card calls.³² These circumstances may also include cases in which wireless subscribers receive calls when they are "roaming" outside their home service area because billing for such calls would require arrangements involving at least three carriers — two CMRS carriers and a LEC. We seek comment on these assumptions and issues, and on any steps that could be taken to address these concerns and impediments to the operation of CPP.

24. Not all LEC networks currently appear to have the technical capability to exchange the billing information required for CPP.³³ Moreover, the use of call branding³⁴ as part of a CPP service option may not always be possible because branding may require Advanced Intelligent Network (AIN) technology that currently is not available in some

³⁰ See CTIA CPP Report at 21-24.

³¹ AirTouch has eliminated this problem in Ohio by having subscribers that elect the CPP service option agree to pay for all calls that would otherwise result in uncollectible revenue. *Salomon Brothers* at 31.

³² CTIA CPP Report at 5; NEWAVES Magazine, "Who Pays for the Call?," Sept. 1996; Cellular Business, "The Enigma of the Killer Application," July 1, 1996; Montana Final Order at paras. 9, 22.

³³ NEWAVES Magazine, "Who Pays For the Call?," Sept. 1996.

³⁴ Branding, in this context, is the ability to inform the caller to a CMRS phone (by use of a recorded intercept message) of additional charges applicable to the call.

locations.³⁵ In some States where branding is not yet available, subscribers with the CPP service option have phone numbers that begin with 1+ a particular prefix. We seek comment on these technical issues, and on what the Commission, the States, or the industry could do to resolve them.

25. In addition, there are means available to give the called CMRS subscriber using CPP the option to pay for incoming calls in some circumstances.³⁶ We seek comment on the technical requirements for this option to be deployed, where this option is currently available, and how the calling party and called party are informed of this additional option.

F. Legal Issues

26. We also seek comment regarding any legal issues that may be posed by any actions the Commission may take regarding imposition or implementation of CPP.

27. As a threshold matter, we recognize that we have stated in the *Arizona Decision*, in the context of ruling on whether a State had made a sufficient showing within the meaning of Section 332(c)(3)(B) of the Communications Act³⁷ that it should be permitted to regulate the rates of CMRS providers, that regulation of CPP was a billing practice that may be regulated by a State as a term or condition under which service is provided.³⁸

28. In the wake of the *Arizona Decision*, we have made clear, in the *Local Competition First Report and Order*, that incumbent LECs have an obligation to provide access to unbundled network elements, and that such network elements include information sufficient to enable recipients of the unbundled network elements to provide billing services. In addition, the Eighth Circuit Court of Appeals, in its *Iowa Utilities Board* decision,

³⁵ The deployment of AIN varies by LEC. For example, US West estimates that 60 percent of its access lines are served directly by AIN capable switches, while Pacific Bell estimates that 87 percent of its access lines have that capability. See Filing and Review of Open Network Architecture Plans, US West Annual Report on Open Network Architecture (Apr. 15, 1997), App. D; Filing and Review of Open Network Architecture Plans, Pacific Telesis Group (a subsidiary of SBC Communications) Annual Report on Open Network Architecture (Apr. 15, 1997), App. E at 3.

³⁶ CTIA CPP Report at 2.

³⁷ 47 U.S.C. § 332(c)(3)(B).

³⁸ Petition of Arizona Corporation Commission To Extend State Authority Over Rate and Entry Regulation of All Commercial Mobile Radio Services and Implementation of Sections 3(n) and 332 of the Communications Act, PR Docket No. 94-104 and GN Docket No. 93-252, Report and Order and Order on Reconsideration, 10 FCC Rcd 7824, 7837 (1996) (*Arizona Decision*).

concluded that the Commission has authority to order LECs to interconnect with CMRS carriers and has the authority to issue rules of special concern to CMRS providers.³⁹

29. In light of the *Local Competition First Report and Order* and the *Iowa Utilities Board* decision, we seek comment regarding the scope of our authority to require LECs to provide billing information and services which will enable CMRS providers to offer CPP services. Specifically, we seek comment on whether we have authority under Section 332 to establish requirements regarding CPP arrangements between LECs and CMRS carriers. We request any commenters suggesting that the Commission lacks authority under Section 332 to identify any other provision of the Communications Act that gives the Commission authority over CPP arrangements. Commenters should also address whether that provision would give us the authority to preempt State regulation in order to establish nationwide rules for CPP.

III. PROCEDURAL MATTERS

30. We adopt this Notice of Inquiry under the authority contained in Sections 4(i), 4(j), and 403 of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 154(j), 403. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before December 1, 1997 and may file reply comments on or before December 16, 1997.

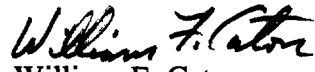
31. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you should file an original and ten copies. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

32. There are no *ex parte* or disclosure requirements applicable to this proceeding pursuant to Section 1.1204(a)(4) of the Commission's Rules, 47 C.F.R. § 1.1204(a)(4).

33. Further information regarding this proceeding may be obtained by contacting Dr. Pamela Megna or Dr. Joseph Levin, Policy Division, Wireless Telecommunications Bureau, at 202-418-1310.

FEDERAL COMMUNICATIONS COMMISSION

³⁹ *Iowa Utilities Board*, 1997 WL 403401 (8th Cir., July 18, 1997), at n.21.


William F. Caton
Acting Secretary